

CHAPTER 175  
FAIR INFORMATION PRACTICES AND PUBLIC RECORDS

The public health department adopts, with the following amendments and exceptions, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

**641—175.1(17A,22) Definitions.** As used in this chapter:

“Agency” or “department” in these rules means the Iowa department of public health.

**641—175.3(17A,22) Requests for access to records.**

**175.3(1) Location of record.** A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, Attention: Record Request. The department will forward the request to the appropriate person.

**175.3(2) Office hours.** Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

**175.3(7) Fees.**

*c. Search and supervisory fee.* An hourly fee may be charged for actual agency expenses in searching for and supervising the examination and copying of requested records. The fee shall be based upon the actual costs incurred. The agency shall post the hourly fees to be charged in routine cases for search and supervision of records. Except as provided in Iowa Code section 144.46, no fee shall be charged if the records are not made available for inspection, or if the time required does not exceed one hour in duration, or if the time required for the search was the result of agency error or record-keeping problems. Iowa Code section 144.46 specifically allows for fees for vital record searches when the record is not copied or is not found and is implemented by 641—96.4(144).

**641—175.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of the words “(designate office)” substitute the words “the office in which the record is maintained.”

**641—175.7(17A,22) Consent to disclosure by the subject of a confidential record.** Delete the phrases in parentheses.

**641—175.8(17A,22) Notice to suppliers of information.** Delete the sentence in parentheses.

**641—175.9(17A,22) Disclosures without the consent of the subject.**

**175.9(1)** Open records are routinely disclosed without the consent of the subject.

**175.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 175.10(17A,22) or in the notice for a particular record system.

*b.* To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record;

*c.* To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality

has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

*d.* To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

*e.* To the legislative services agency under Iowa Code section 2A.3.

*f.* Disclosures in the course of employee disciplinary proceedings.

*g.* In response to a court order or subpoena.

**641—175.10(17A,22) Routine use.**

**175.10(1)** Defined. “Routine use” means the disclosure of a record without the consent of the subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**175.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. Disclosure to employees of federal, state and local agencies, and other researchers for purposes of bona fide research. The custodian of the record may, upon receipt of a request or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

*c.* Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

*d.* Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

*e.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

*f.* Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**641—175.11(17A,22) Consensual disclosure of confidential records.**

**175.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 175.7(17A,22).

**175.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**641—175.12(17A,22) Release to subject.**

**175.12(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 175.6(17A,22). However, the agency need not release the following records to the subject:

*a.* The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

*b.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

**175.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

**641—175.13(17A,22) Availability of records.**

**175.13(1)** General. Agency records are open for public inspection and copying subject to supervision unless otherwise provided by rule or law.

**175.13(2)** Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Records which identify a person infected with a contagious or infectious disease required to be reported under Iowa Code chapter 139, and maintained as confidential pursuant to Iowa Code section 139.2.

b. Records which identify a person infected with a sexually transmitted disease required to be reported under Iowa Code chapter 140, and maintained as confidential pursuant to Iowa Code sections 140.3 and 140.4.

c. HIV screening records collected pursuant to Iowa Code chapter 141.

d. Vital records maintained by the agency pursuant to Iowa Code chapter 144, and held confidential pursuant to 144.43. These records include records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence. Certified copies of such records may be made available only as outlined in 641—96.7(144).

e. Radioactive materials licensee files of the radiological health program, which are kept confidential by terms of an agreement with the federal Nuclear Regulatory Commission pursuant to Iowa Code section 136C.11.

f. Records of the WIC program (special supplemental food program for women, infants and children) required by 7 CFR 246.26(d) (February 13, 1985) to be maintained as confidential records. These include certain files of the program participant data base, WIC food checks, WIC vendors, combined agency files, U.S.D.A. correspondence referring to program participants, and appeals.

g. Reports maintained as confidential by the emergency medical services (EMS) program pursuant to 641—subrule 132.8(3). These include the Iowa prehospital care report and Iowa ambulance advanced emergency care report.

**175.13(3)** Portions of the following records shall be kept confidential under Iowa Code section 22.7:

a. Records which contain medical record information protected by Iowa Code section 22.7(2). Such information may be found in records including the following:

- (1) Chlamydia screening records.
- (2) Cancer screening records.
- (3) Rheumatic fever prophylaxis program records.
- (4) Sexual assault examination and reimbursement program records.
- (5) Client records in the SIDS (Sudden Infant Death Syndrome) program records and the Birth Defects/Genetic Counseling program.
- (6) Sterilization reimbursement records.
- (7) Patient records in the AZT drug reimbursement program.
- (8) Work-related disease program file.
- (9) Conditional paramedic pilot project records and medical audits maintained by the emergency medical services (EMS) program.
- (10) Records and correspondence of the refugee health program.
- (11) Case records and immunization records maintained in the first-aid room at the State Capitol.

(12) Chronic renal disease program patient files.

(13) Bureau of health promotion records which contain medical information protected by Iowa Code section 22.7(2). This includes medical information from screening programs for blood pressure, diabetes, cholesterol and colorectal cancer; from diabetes outpatient education assessment, fitness assessment and health risk appraisals; and correspondence containing medical information.

(14) Correspondence relating to these or other programs which contains medical records.

b. Homemaker/home health aide program records dealing with training exceptions which include educational records protected by Iowa Code section 22.7(1).

c. Records of the radiological health program dealing with radiography technicians and radiography technician testing results which include educational records protected by Iowa Code section 22.7(1).

d. Manufacturer “notice of sale” records filed by the radiological health program, which are kept confidential pursuant to Iowa Code section 22.7(6).

e. Certain consumer product and safety information maintained by the Health Engineering section for which Section 6 of the federal Consumer Products Act requires confidentiality.

**175.13(4)** Minutes of closed meetings of a government body (Iowa Code section 21.5(4)) shall be kept confidential.

**175.13(5)** Identifying details in final orders, decisions and opinions shall be kept confidential to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d.”

**175.13(6)** Portions of agency staff manuals, instructions or other statements issued shall be kept confidential which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

a. Enable law violators to avoid detection;

b. Facilitate disregard of requirements imposed by law; or

c. Give a clearly improper advantage to persons who are in an adverse position to the agency.

(See Iowa Code sections 17A.2 and 17A.3.)

**175.13(7)** Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged shall be kept confidential. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

**175.13(8)** Records exempted from public inspection under any other provision of law shall be kept confidential.

**175.13(9)** Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 175.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 175.4(3).

**641—175.14(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 175.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information. A data processing system does not match, collate, or permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system, unless so indicated. The record systems maintained by the agency are:

**175.14(1) *Division of family and community health.***

a. Records of the public health nursing and homemaker/home health aide programs collected pursuant to Iowa Code section 135.11(15). These records are stored on paper, electronically or both, depending on the specific type of record.

b. Records of the maternal and child health programs collected pursuant to Iowa Code sections 135.11(19) and 709.10 and chapter 255A. These records are stored on paper, electronically or both, depending on the specific type of record. Data processing systems are being developed to link certain client data in these programs with client data in the WIC program.

c. Records of the nutrition and WIC (supplemental food program for women, infants and children) programs collected pursuant to Iowa Code section 135.11(1) and Chapter 17 of the federal Child Nutrition Act of 1966 as amended. These records are stored on paper, electronically or both, depending on the specific type of record. Data processing systems are being developed to link certain client data in this program with client data in maternal and child health programs.

d. Records of the birth defects institute collected pursuant to Iowa Code chapter 136A. These records are stored on paper.

e. Records of the dental health programs collected pursuant to Iowa Code section 135.11(19), funded primarily by maternal and child health funds. These records are stored on paper or electronically, depending on the specific type of record.

f. Records of the lead abatement program collected pursuant to Iowa Code sections 135.100 to 135.105. These records are stored on paper.

g. The above listed records are open, except for confidential records noted in rule 175.13(17A,22).

**175.14(2) *Division of disease prevention.***

a. Records of reportable contagious and infectious diseases (including epidemiology and immunization records) collected pursuant to Iowa Code chapter 139. These records are stored on paper, electronically or both, depending on the specific type of record. Except for statistical reports, these records are confidential as outlined in subrule 175.13(2)“a.”

b. Records of reportable sexually transmitted diseases collected pursuant to Iowa Code chapter 140. These records are stored on paper, electronically or both, depending on the specific type of record. Except for statistical reports these records are confidential as outlined in 175.13(2)“b.”

c. Refugee health program records collected pursuant to Iowa Code section 135.11(1) and Section 412(c)(3) of the federal Immigration and Naturalization Act. These records are stored on paper, electronically or both, depending on the specific type of record. Certain medical information in these records is confidential as outlined in 175.13(3)“a”(10).

d. Records of the environmental health programs collected pursuant to Iowa Code section 135.11(1) and PL96-510, Section 104(d)(1), 40 CFR-763 effective June 28, 1983, and 40 CFR-761 effective May 31, 1979, dealing with asbestos, PCB and other environmental health factors. These records are stored on paper, electronically or both, depending on the specific type of record. Certain medical information in the work-related disease program file may be confidential, as outlined in 175.13(3)“a”(8). Certain asbestos, PCB and lead inspection records are collected under contract with the federal Environmental Protection Agency, and requests for such records would be referred to that agency.

e. Records of the health engineering program collected pursuant to Iowa Code chapter 138 and sections 192.31 and 135.12. These records are stored on paper.

f. Records of the radiological health program collected pursuant to Iowa Code chapters 136B and 136C. These records are stored on paper, electronically or both, depending on the specific record. Certain of these records are confidential as outlined in 175.13(3), paragraphs “c” and “d.”

g. Records of the veterinary public health program collected pursuant to Iowa Code chapter 139. These records are stored on paper. Certain medical information in these records may be confidential as outlined in 175.13(2)“a.”

*h.* Records of the emergency medical services program collected pursuant to Iowa Code chapter 147A. These records are stored on paper, electronically or both, depending on the specific type of record. Some of these records are confidential as outlined in 175.13(2) “g” and 175.13(3) “a”(9).

*i.* Records of the AZT drug reimbursement program collected for purposes of implementing a federal grant program authorized by HR 1827. These records are stored on paper. Certain patient records are confidential as outlined in 175.13(3) “a”(7).

*j.* Case records and immunization records maintained in the first-aid room at the State Capitol. These records are collected under the general authority of Iowa Code section 135.11(1), are stored on paper, and are maintained as confidential as outlined in 175.13(3) “a”(12).

**175.14(3) *Division of central administration.***

*a.* Vital records collected pursuant to Iowa Code chapter 144, including records of births, deaths, fetal deaths, adoptions, marriages, divorces, annulments and related data and correspondence. These records are stored on paper, microfiche and electronically. These records are confidential as noted in subrule 175.13(2) “d.”

*b.* Licensing records of the professional licensing boards. These records are identified in rules filed by the individual licensing boards (IAC 645). They contain information about individuals, some of which is confidential.

*c.* An electronic inventory of records maintained by the department, which indicates the type of information contained on the record, contact person for the record, how the record is stored, whether the record is confidential, and whether it contains personally identifiable information. This inventory is maintained by the Information Management Bureau.

*d.* Fiscal records maintained by the division are generally originated by the department of revenue and finance or the department of management. Requests for these records, stored on paper or electronically, will be referred by the department to the appropriate agency.

*e.* Personnel records maintained by the department include:

(1) Personnel records containing information about employees, families and dependents, and applicants for positions with the agency. Some of this information is confidential under Iowa Code section 22.7(11).

(2) Copies of county public health nursing files maintained by the department to assist local boards of health in following merit principles in their employment practices as required by Iowa Code section 137.6(4) as it relates to employment of public health nurses per Iowa Code section 143.1. Requests for these records will be referred by the department to the county of origin of the record.

**175.14(4) *Division of substance abuse and health promotion.***

*a.* Records of the bureau of health promotion collected pursuant to Iowa Code section 135.11(1). Certain medical information in these records is confidential as outlined in 175.13(3) “a”(13). The medical information from wellness programs and screening programs is stored on paper.

*b.* Records of substance abuse programs of this division are identified in rules adopted by the substance abuse commission (IAC 643).

**175.14(5) *Office of health planning.***

*a.* Records of the certificate of need program collected pursuant to Iowa Code sections 135.61 to 135.83 and the 1122 review program pursuant to Iowa Code section 135.11(1) and PL92-603.1122. These records are stored on paper.

*b.* Records of the chronic renal disease program collected pursuant to Iowa Code sections 135.45 to 135.48. These records are stored on paper, electronically or both, depending on the specific type of record.

*c.* Contract records of the health data commission pursuant to Iowa Code section 145.3(1). These records are stored on paper and electronically.

*d.* Records of health maintenance organization reviews pursuant to Iowa Code section 514B.4. These records are stored on paper.

e. Annual hospital surveys collected pursuant to Iowa Code sections 135.74 and 135.75. These records are stored on paper and electronically.

f. All of the above records are open, except for confidential medical information as noted in 175.13(3) "a"(12).

**175.14(6) Governor's alliance on substance abuse.**

a. Records of the high-risk youth grant program collected pursuant to Iowa Code section 135.11(1) and the federal Anti-Drug Abuse Act of 1986. These records are stored on paper.

b. Records of the narcotic control grant program collected pursuant to Iowa Code section 135.11(1) and the federal Anti-Drug Abuse Act of 1986. These records are stored on paper.

c. These records are open.

**641—175.15(17A,22) Other groups of records.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 175.2(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in 175.13(17A,22). The records listed may contain information about individuals. All records are stored on paper unless otherwise noted.

**175.15(1) Rule making.** Rule-making records may contain information about individuals making written or oral comments or proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

**175.15(2) Council and commission records.** Agendas, minutes, and materials presented to the councils, committees and commissions listed below are available from the department, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4) or which are otherwise confidential by law. Council and commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

a. Advanced emergency medical care council (no longer in existence).  
 b. Birth defects advisory committee.  
 c. Governor's alliance on substance abuse.  
 d. Governor's emergency medical services advisory council (no longer in existence).  
 e. Iowa health data commission (permanent file rotates among agencies with the chair of the commission).

f. Iowa organ and tissue transplant commission.

g. Immunization action advisory council.

h. Maternal and child health advisory council.

i. Perinatal standards committee.

j. Renal disease advisory committee.

k. Sexual abuse advisory committee.

l. SIDS advisory committee.

m. State agency coordinating committee.

n. State board of health.

o. State health facilities council.

p. State plumbing code committee (no longer in existence).

q. Statewide health coordinating council.

r. Other ad hoc task forces and committees appointed by the department.

**175.15(3) Publications.** News releases, annual reports, project reports, agency newsletters, etc., are available from the public information office. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees.

**175.15(4) Statistical reports.** Periodic reports of vital statistics records are available from the vital statistics section in the division of central administration.

**175.15(5) *Appeal decisions and advisory opinions.*** All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 175.13(17A,22) or 175.14(17A,22). These records may contain information about individuals.

**175.15(6) *Published materials.*** The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

**175.15(7) *Policy manuals.*** Policy or program manuals of various programs may be obtained by contacting the program.

**175.15(8) *All other records that are not exempted from disclosure by law.*** Other records used by the agency include correspondence files, surveys conducted by programs, information and data files, and records used for processing purposes internally (such as data processing and word processing requests, supply shipments, etc.). Some of these records may contain information about individuals. Correspondence files may contain confidential information protected by statutes cited in 175.13(17A,22) of these rules.

**641—175.16(17A,22) *Data processing systems.*** Except where otherwise noted, data processing systems used by the agency do not permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

**641—175.17(17A,22) *Applicability.*** This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

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